

REMARKS

Claims 1 and 6-14, as amended, remain herein. Claim 15 remains herein but is presently withdrawn from consideration.

Claim 1 has been amended to recite all of the limitations of claim 5, and claims 2-5 have been cancelled without prejudice or disclaimer. Minor edits have been made to claims 6-14.

Applicants respectfully request the Examiner to provide an initialled copy of PTO Form 1449 indicating receipt and consideration of references accompanying an Information Disclosure Statement filed April 30, 2003.

1. In response to a telephonic restriction requirement of June 10, 2003, a Confirmation of Telephone Election was filed in the USPTO on June 12, 2003. Applicants hereby confirm the election to prosecute the subject matter of Group I, claims 1-14, without prejudice to applicants' right to file a divisional application directed to the non-elected invention of Group II (i.e., claim 15).

Applicants respectfully traverse the Restriction Requirement since the subject matter of all claims 1-15 is sufficiently related that a thorough and complete search for the

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subject matter of the elected claims should necessarily encompass a thorough and complete search for the subject matter of the non-elected claims. Search and examination of the entire application could be made without serious burden. See MPEP §803 which states: "If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits." This policy should apply in the present application to avoid unnecessary delay and expense to applicants and unnecessary duplicative examination by the USPTO.

2. The specification, page 16, has been edited to a correct minor typographical error.

3. Claims 1-4, 8 and 9 were rejected under 35 U.S.C. §102(b) over Harumoto et al. U.S. Patent 6,021,242. Claims 1 and 5-7 were rejected under 35 U.S.C. §102(b) over Bakhti et al. U.S. Patent 5,887,094. Claim 1 has been amended to recite all of the limitations of former claim 5.

The presently claimed optical wavelength filter comprises an optical fiber or an optical waveguide comprising a structure having a periodically varying diffraction coefficient, wherein

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the periodically varying diffraction coefficient structure has a fixed pitch, the parameter which continuously varies is an average value of a diffraction coefficient of the periodically varying diffraction coefficient structure, and the at least one interruption portion comprises a portion of the periodically varying diffraction coefficient structure at which a transition occurs from a first average value of a diffraction coefficient to a second average value of a diffraction coefficient. This arrangement is nowhere disclosed or suggested in the cited reference.

The Office Action cites Harumoto '242 as allegedly disclosing the optical wavelength filter recited in applicants' claim 1. However claim 1 has been amended to recite the elements of former claim 5, and the Office Action does not suggest that Harumoto '242 discloses or suggests the elements of former claim 5.

The Office Action cites Bakhti '094, Fig. 3, as allegedly disclosing an optical wavelength bandpass filter, stating:

wherein at least one interruption portion (PS2, PS3) comprises a portion of the periodically varying diffraction coefficient structure at which a transition occurs from a first average value diffraction coefficient to a second average value of

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diffraction coefficient; wherein each interruption portion (PS2, PS3) comprises a discontinuity in the continuous variation of diffraction coefficient, the discontinuity being located at a predetermined position and being of predetermined length.

Actually, Bakhti '094 does not support such an assertion. Instead, Bakhti '094, column 3, lines 38-47, from which that description appears to have been derived, actually describes the embodiment shown in Bakhti '094, Fig. 3, as:

... a single Bragg grating BG2 in which two phase-shift areas PS2 and PS3 have been formed ... distributed such that if $4L$ is the total length of the grating the area PS2 is at a distance L from one end of the grating and area PS3 is at a distance $3L$ from this same end.

Moreover, Bakhti '094, column 2, lines 63-67, states that such a phase-shift, or "phase-skip" region is formed by omitting one half-period of the grating.

Thus, the Bakhti '094 apparatus performs a method that is dependent upon omission of parts of the sequence constituting the grating structure, each omitted part being of a specific length, with the omitted portions located at specific portions along the length of the grating. That method clearly is unrelated to the subject matter of claim former 5, now

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incorporated into claim 1. That is, in Bakhti '094, the effect obtained is a result of omission of parts of the grating structure (each of specific length, at a specific location), and is not a result of a transition from a first average value of diffraction coefficient to a second average value. Bakhti '094 does not disclose or suggest such a transition between average values.

For the foregoing reasons, both Harumoto '242 and Bakhti '094 fail to disclose all elements of applicants' claimed invention, and therefore neither is a proper basis for rejection under §102. And, there is no disclosure or teaching in Harumoto '242 or Bakhti '094 that would have suggested the desirability of modifying any portions thereof effectively to anticipate or suggest applicants' presently claimed invention. Claims 2-4, 8 and 9, which depend from claim 1, are allowable for the same reasons described herein for claim 1. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

4. Claims 1-4, 8 and 9 were rejected under 35 U.S.C. §102(b) over Xie et al. U.S. Patent Publication 2001/0048788.

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The Office Action cites Xie '788 as allegedly disclosing the optical wavelength filter recited in applicants' claim 1, however claim 1 has been amended to recite the elements of former claim 5, and the Office Action does not suggest that Xie '788 discloses or suggests the elements of former claim 5.

The Office Action cites Bakhti '094 as allegedly disclosing an optical wavelength bandpass filter like that of applicants' former claim 5. However, Bakhti '094 does not disclose or suggest the elements of applicants' former claim 5, now incorporated into claim 1, as discussed herein.

For the foregoing reasons neither Xie '788 nor Bakhti '094 discloses all elements of applicants' claimed invention, and therefore neither is a proper basis for rejection under §102. And, there is no disclosure or teaching in Xie '788 or Bakhti '094 that would have suggested the desirability of modifying any portions thereof effectively to anticipate or suggest applicants' presently claimed invention. Claims 2-4, 8 and 9, which depend from claim 1, are allowable for the same reasons described herein for claim 1. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

5. Claims 10-14, depending from claim 1, were rejected under 35 U.S.C. §103(a) over Xie '788 and Feng U.S. Patent 5,982,963.

The Office Action cites Xie '788 as allegedly disclosing the optical wavelength filter recited in applicants' claim 1, however claim 1 has been amended to recite the elements of former claim 5, and the Office Action does not suggest that Xie '788 discloses or suggests the elements of former claim 5.

The Office Action cites Bakhti '094 as allegedly disclosing an optical wavelength bandpass filter like that of applicants' former claim 5. However, Bakhti '094 does not disclose or suggest the elements of applicants' former claim 5, now incorporated into claim 1, as discussed herein.

The Office Action admits that Xie '788 does not teach periodically varying diffraction coefficient structure formed by selective application of heat, mechanical stress, or electrical fields, and cites Feng '963 as allegedly disclosing same. However, Feng '963 does not provide the deficiencies of either Xie '788 or Bakhti '094 discussed herein.

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For the foregoing reasons, none of Xie '788, Feng '963 or Bakhti '094 contains any teaching, suggestion, reason, motivation or incentive that would have led one of ordinary skill in the art to applicants' claimed invention. Nor is there any disclosure or teaching in any of these references that would have suggested the desirability of combining any portions thereof effectively to anticipate or suggest applicants' presently claimed invention. Claims 10-14, which depend from claim 1, are allowable for the same reasons described herein for claim 1. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

All claims 1 and 6-14 are now proper in form and patentably distinguished over all grounds of rejection cited in the Office Action. Accordingly, allowance of all claims 1 and 6-14 is respectfully requested.

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Should the Examiner deem that any further action by the applicants would be desirable to place this application in even better condition for issue, the Examiner is requested to telephone applicants' undersigned representatives.

Respectfully submitted,

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